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Attorneys for Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORLAND DIVISION

JOSEPH BRINKMANN,

Case No.

Plaintiff,

Multnomah County Circuit Court
Case No. 19CV09834

v.

TUALITY HEALTHCARE,

**DEFENDANT'S NOTICE OF
REMOVAL**

Defendant.

28 U.S.C. §§ 1331, 1441, and 1446

TO: CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, PORTLAND DIVISION, AND TO PLAINTIFF JOSEPH BRINKMANN AND HIS ATTORNEY OF RECORD

PLEASE TAKE NOTICE THAT Defendant Tuality Healthcare ("Tuality") hereby removes this action from the Circuit Court of the State of Oregon for Multnomah County to the United States District Court for the District of Oregon, Portland Division pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, asserting original federal jurisdiction on

the basis of a federal question, codified in relevant part at 28 U.S.C. § 1331, and states that removal is proper for the following reasons:

PROCEDURAL BACKGROUND IN STATE COURT

1. On March 4, 2019, Plaintiff filed a civil action captioned *Joseph Brinkmann v. Tuality Healthcare* (Case No. 19CV09834) in the Circuit Court of the State of Oregon for the County of Multnomah.

2. Tuality accepted service of process and thereby was served with a true copy of the Summons and Complaint on April 3, 2019. True and correct copies of the Summons (**Exhibit A**), Complaint (**Exhibit B**), and Acceptance of Service (**Exhibit C**) are attached hereto.

3. Exhibits A, B, and C constitute all of the pleadings served on Defendant and filed in Multnomah County Circuit Court prior to the filing of this Notice of Removal.

TIMELINESS OF REMOVAL

4. This Notice of Removal is timely in that it is filed within thirty (30) days after Tuality was served with a copy of the initial pleading setting forth the claims for relief upon which this action is based.

FEDERAL JURISDICTION

5. Any civil action filed in a state court over which the federal district courts would have original jurisdiction may be removed. 28 U.S.C. § 1441(a). As set forth more fully below, this action is removable because this Court has original jurisdiction under 28 U.S.C. § 1331.

6. Plaintiff has alleged a federal question in his complaint by alleging a

violation of the Fair Labor Standards Act (FLSA).

CONCLUSION

7. This case is properly removed to this Court under 28 U.S.C. § 1331 because there is a federal question.

8. The United States District Court for the District of Oregon, Portland Division is the district and division embracing the place where the state court action was pending (*i.e.*, the Circuit Court of the State of Oregon for Multnomah County).

9. In accordance with 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Tuality will: (a) give written notice to Plaintiff; and (b) file a copy of the Notice of Removal with the Clerk of the Circuit Court of the State of Oregon for Multnomah County.

WHEREFORE, Tuality gives notice that this action is hereby removed from the Circuit Court of the State of Oregon for Multnomah County to the United States District Court for the District of Oregon, Portland Division.

DATED: April 29, 2019.

BULLARD LAW

By s/Francis T. Barnwell

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2019 I served the foregoing

DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION UNDER 28 U.S.C.

§§ 1331, 1441, and 1446 on:

Karen A. Moore
Schuck Law, LLC
208 E. 25th Street
Vancouver, WA 98663
(360) 566-9243 Phone
(503) 575-2763 Fax
kmoore@wageclaim.org

- by **electronic** means through the Court's Case Management/Electronic Case File system, which will send automatic notification of filing to each person listed above.
- by **mailing** a true and correct copy to the last known address of each person listed. It was contained in a sealed envelope, with postage paid, addressed as stated above, and deposited with the U.S. Postal Service in Portland, Oregon.
- by causing a true and correct copy to be **hand-delivered** to the last known address of each person listed. It was contained in a sealed envelope and addressed as stated above.
- by causing a true and correct copy to be delivered **via overnight courier** to the last known address of each person listed. It was contained in a sealed envelope, with courier fees paid, and addressed as stated above.
- by **faxing** a true and correct copy to the last known facsimile number of each person listed, with confirmation of delivery. It was addressed as stated above.
- by **emailing** a true and correct copy to the last known email address of each person listed, with confirmation of delivery.

s/Francis T. Barnwell

Francis T. Barnwell, OSB No. 841623
Attorneys for Defendant